

**MINUTES OF THE COMMON COUNCIL  
IN REGULAR SESSION  
September 11, 2012**

A regular session of the Winchester Common Council was held on Tuesday, September 11, 2012 in the Council Chambers, Rouss City Hall. President Jeffrey Buettner called the meeting to order at 7:02 p.m.

**PRESENT:** President Jeff Buettner; Councilor Evan Clark, John Hill, John Tagnesi, Les Veach and Ben Weber; Vice-Mayor Milt McInturff; Mayor Elizabeth Minor; Vice-President John Willingham (9)

**ABSENT:** None (0)

**INVOCATION** – Reverend Dr. Kitty Hahn-Campanella of Highland-Memorial Presbyterian Church delivered the invocation.

**PLEDGE OF ALLEGIANCE** – Mayor Minor led the citizens and councilors in the Pledge of Allegiance.

**APPROVAL OF MINUTES** – August 14, 2012 Regular Meeting, August 21, 2012 Work Session and August 28, 2012 Work Session

Mayor Minor moved to approve the minutes as presented. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**REPORT OF THE MAYOR**

**R-2012-68:** Resolution – Honoring the retirement of Nathan S. Newlin

**R-2012-60:** Resolution – Recognition of Derek Costello

Vice-President Willingham moved to approve R-2012-68 and R-2012-60. *The motion was seconded by Councilor Tagnesi then unanimously approved by voice-vote.*

Mayor Minor presented Nathan Newlin with the resolution honoring his service as a firefighter with the city.

Mayor Minor presented Derek Costello with a resolution recognizing his actions to get his mother help during a medical emergency.

President Buettner welcomed Boy Scout Troop 63 to the meeting and thanked them for attending.

**REPORT OF THE CITY MANAGER**

City Manager Dale Iman stated he had nothing to report.

**REPORT OF THE CITY ATTORNEY**

City Attorney Anthony Williams stated based on the motion during the Special Meeting; the alternate versions regarding Millwood Avenue are not before the governing body for consideration unless a motion is made to that affect.

**PUBLIC HEARINGS**

**O-2012-23:** Public Hearing – AN ORDINANCE TO ACCEPT THE CONVEYANCE OF PROPERTY FROM SHENANDOAH UNIVERSITY AND VDOT; AND TO VACATE AND CONVEY PROPERTY TO SHENANDOAH UNIVERSITY, J.L. MEAGLE AND T.L. LIVERMAN, LLC; AND FLC & BROTHERS REBEL, INC., AND FLC & BROTHERS MOTEL, INC., IN FURTHERANCE OF THE MILLWOOD AVENUE PROJECT **SV-12-302**

Ken Candell of 127 Myrtle Avenue stated he has come before Council a number of times. He has not changed his opinion from what he has read or from the offerings made over the last two years on the closing of Millwood. Whether it is a grandiose entrance or a glorified sewer for handling drainage for the new area, the closing of Millwood defines in his mind the common sense he grew up with. The shortest route between two points is a straight line and that is Millwood as it sits today. There is a clear line of sight for well over 1000 feet. By instituting a left hand and then a right hand continuous turn, his view will be obstructed and he will be forced to go down a hill and stop at a four-way stop light. Something he does not wish to do. He left Arlington, Virginia for this reason. He left Chicago, Illinois for one of these reasons. He stated when you start messing with people's time in their travel; you are not doing them a favor. He was glad to hear both MOUs were being removed because he did have a question there. It made no common sense to him why you would enter into an agreement that allows anyone to go out and purchase property and then come back and ask to destroy a road because they own property on the other side of the road. He reiterated his opposition to the closure of a straight line process of egress and ingress into the city.

Pat Smith of 144 Royal Avenue in Frederick County stated she applauds Council for giving their time selflessly in serving and their efforts extended as representatives of the people. She comes before Council as a native of Winchester. She has lived here for almost all of her life and considers Winchester her hometown. She speaks as a citizen of and for the multitude in the community who takes special interest in and has great concern for decisions affecting all of us. She uses the entrance and thoroughfare of US Route 50/Millwood Avenue into the city regularly supporting the services and businesses in Winchester. The issues raised and presented in opposition by residents and business people of Winchester as well as those of the surrounding community offer substance,

validity, and merit. In the last paragraph of an article in the Winchester Star on Saturday, March 17, titled "Process Shaped Stadium Decision", Mr. Buettner stated "the stadium debate shifted the bar on how we'll handle some things in the future." He continued by stating he would support a similar process when the Millwood Avenue closure issue comes before Council. She stated the voice of the people of Winchester is quite clear and emphatic. Plain and simple, the citizenry does not want this thoroughfare closed. She stated they have collected 1,455 petition signatures over the last month requesting either a refusal of the project or a public referendum concerning it. She presented the petitions to Council with the request that as the governing body of Winchester, the members uphold their oaths by giving credence to the citizenry and vote no to the closure.

John McAniff of 719 Pennsylvania Avenue stated he uses Millwood Avenue westbound quite often. The closure of this area is not in the public interest. He has several questions that have still not been answered thoroughly. He doesn't know if they can be answered. The first question is why Council is going on a traffic study that was taken in the middle of the week at non-peak traffic hours instead of having VDOT do a State traffic study which would take 5 days a week and would include peak traffic hours. He asked how you could say this is going to work without that. Secondly, he asked why Council does not wait until they have the final report from the Commonwealth Transportation Board before making the final vote. He stated if these two studies were done, it would give everybody a final way to form their objections or acceptance on the road closing. He stated the prudent thing for Council to do tonight would be to table this entire matter until December when the Commonwealth Transportation Board is supposed to issue their final recommendation and hopefully to get VDOT to do a correct traffic study instead of a one day, middle of the week, middle of the day study on non-peak hours.

J.T. Kremer Jr., of 705 Mahone Drive stated to close or not to close Millwood Avenue has been a very much talked about subject for over two years. From the initial MPO meetings, letters to the editors in the Star, the collection of signatures on petitions of city residents and local county neighbors who are tax payers and users, and tonight's second public hearing, Council has heard from the citizens both loudly and clearly that they are absolutely opposed to closing Millwood Avenue for any entity or for any reason. The public welfare, police, fire or emergency response, is not served one iota by closing Millwood Avenue and vastly hindering the response time. He stated it is good to know that all Councilors are able to vote tonight on this very important matter and no one has to abstain. The citizens and taxpayers will get to watch you vote. He asked what is with abstention anyway. You can give your input to your fellow councilors behind closed doors but you can't vote in public. If you have a conflict of interest, you should not be allowed to address the subject at all, anytime or anywhere. He stated let your voice be heard and do not hide where your stand. He is sure Council has done their due diligence over the past two years by physically observing the traffic flows and bottlenecks at both Jubal Early and Millwood Avenue, in both the a.m. and p.m. hours, Monday through Thursday and Friday through Sunday, during normal days, shopping days, and particularly the big holiday shopping days, and how Pleasant Valley is negatively impacted also. He said if Council has honestly done that, there is no way they could in good conscience vote to close Millwood Avenue for the good future of the city of

Winchester. With that being said, he stated the word on the street and what makes the citizens and tax payers angry is that this public hearing is nothing more than an appeasement to the citizens and the public hearing is a done deal. A recent letter to the editor with nice verbiage only to be sucker punched on the done deal was not pleasant or fun. He stated the word more specifically is that Shenandoah always gets what Shenandoah wants. He would certainly hope not but if that is the case, that it was a done deal and not cut and dried, it would be shameful. He stated if Council had placed this on the November ballot as a referendum, we would not be here tonight. He asked why this was not put on the ballot as a referendum. Closing Millwood Avenue for Shenandoah would be defeated and that is the word Council would not let speak. He reminded Council that when you plant weeds, you can't pick flowers.

James Swartz of 341 Shenandoah Avenue stated he has a few questions tonight. He asked will closing Millwood Avenue help the people of Winchester or anyone entering from the east. There is already a two lane road bed in place which is only being used as one lane right now. If it was changed into two lanes coming into town from the Abrams Creek bridge to the Sheetz, it would allow people to get into the correct lane to go downtown or make a right turn to go north on Pleasant Valley. He asked how many square feet of present green land is going to be paved over. The proposal is to cut off 1000 feet. The continual turn lane will be more than 1000 feet and will probably be 15-18 feet wide. That water has to go somewhere. He stated continual means constant. He asked how it can be continual if as soon as you make the right turn there is a traffic light. He asked how the people coming east on Jubal Early will make a left turn with two lanes of traffic trying to get into the right lane. He said there will be three US highways, 50, 522 and 17, plus the egress coming off of I-81. All that is needed is signage, not a continual turn lane that cannot be continual if there is a traffic light. Its red, it's green. If it is red, you stop. If it is green, you go. It is not continual. He asked Council to vote against this. He stated it will not help anyone. He asked what the citizens of Winchester are getting for this.

Robert Wills of 212 Fox Drive stated as a result of the petitions and surveys, the citizens feel that if the Millwood Project had been put on a ballot as a referendum, it would have been defeated by an overwhelming majority of voters in this area. Many of the citizens have expressed their objections to the closing of Millwood Avenue. He stated they can't figure out why anyone would want to get rid of a perfectly good road except that Shenandoah University wants it. Notwithstanding, all of the results of the closure are still unknown. He stated that section of Millwood Avenue is well engineered. It bears a lot of traffic. It is safe. It is a straight shot into the city with no detours and no traffic jams. He stated the citizens of Winchester and Frederick County want Millwood to remain open for public use. It should be known that Millwood Avenue is not for sale.

Mary Jane Harden of 355 George Street stated her husband has been part of the Winchester Rescue Squad and Millwood Station Rescue Squad for 51 years this October. She was so proud to see Nathan get the recognition tonight because Nathan started at the Winchester Rescue Squad as a Junior Squads man. It was marvelous to see. She stated if you close that section, when Millwood Station comes into the city to help on fire and

rescue calls, it is going to impede them in minutes and you could be losing a life. They are called many times to come in and help the city. She stated she had one person say no to the petition. She had a gentleman that retired from the Virginia Department of Transportation that said VDOT must approve this closure because our taxes on gas and oil go to fund the roads in Virginia. The City Council has no right to make this call. VDOT pays the city to maintain the streets and roads.

Sam Leinbach of 317 Fairmont Avenue stated adequate traffic studies have not been done to support the proposed changes for Route 50. The study used to support this change was performed only on one day, Tuesday, November 1, 2011. The peak time for the study was designated as being from 9:00 – 10:00 a.m. which is not representative of the morning and afternoon normal peak travel times. He stated traffic backups and jams, which the city calls stacking, occur currently during the morning and afternoon rush hours on 50 and Jubal Early Drive. These backups will inevitably get worse if the proposed changes occur. Likewise, the potential for accidents in the dedicated right turn lane and at malfunction junction will increase. He stated City Council should take the responsibility to commission an independent study to correctly establish the impact this change will have on the traffic flow. He stated he has talked with hundreds of people regarding this change and the public sentiment is overwhelmingly opposed to this change. The only people he talked to who are in favor of this change were associated with Shenandoah University. He stated eleven years ago today, 2,977 people were killed in the attacks on the Twin Towers, the Pentagon and Shanksville, Pennsylvania. Two residents of Clarke County, Admiral Bud Flagg and his wife, were killed in the aircraft that flew into the Pentagon. It is regrettable that City Council chose to have this day of mourning to hold this vote. Even the presidential candidates suspended campaigning to observe this day of mourning. He stated he appreciates the hard work that Robina Bouffant, Pat Smith and all of the other people who knocked on doors put in and those who are speaking in opposition tonight.

Joseph Alger of 142 McCarty Lane stated a lot of what he was going to say has already been covered so he will speak about his experience getting signatures. He started at Delco Plaza and went from shop to shop talking to the people that own and work there. He went to the downtown pedestrian mall and walked the streets. He has been in shops and stores that he hasn't been in for many years. He is a long time Winchester resident and remembers the days when you used to go drag Main on a Saturday night. He stated he had two people who declined to sign his petition. One stated it was a conflict of interest because of his boss and the other were shopkeepers for a reason he is not going to explain. He stated everyone else was against it for many reasons that have all been stated here. His father use to say if something doesn't sound right, then there is something wrong with it. He stated he hopes Council will listen to what everyone has said and take it to heart and make the right decision.

Don Karolyi of 818 South Stewart Street stated he wanted to talk about three things tonight. The first is more to Shenandoah University and the expansion, secondly, the beauty of keeping it straight and simple, and finally, why the members of City Council voted the way they have. He suggested several properties on the east and west side of the

city for expansion to Shenandoah University. He stated he has run out of time before discussing the real problem and offered to speak to anyone on the courthouse steps after the meeting. He presented a map to show the direct route to the courthouse from the back of City Hall and a longer route from City Hall going down Boscawen Street to turn right onto Loudoun Street to the courthouse and stated straight and simple.

James Kremer of 217 Shawnee Avenue stated he has lived in Winchester all of his life and travels that corridor every day. He sees nothing wrong with it. A free turning right lane is already there in front of Beltone because of the yield sign. There is no traffic light. He stated you can slide on into Winchester and go about your merry way. It is smooth, safe, and well controlled. He doesn't know why we got into this mess but he understands Shenandoah University has a little something to say about it. He asked why add congestion to a small town. It is not as small as it used to be but it is still a small town. He stated another traffic signal is really not needed. He has talked to so many people that have no idea if that will really work. He suggested taking a look at another exchange someplace else instead. He also suggested Shenandoah University could buy land in the county and stated the couple of million dollars they want to invest could buy a prime location for them.

Irene Terrill of 225 Muse Drive stated she uses Millwood Avenue quite a bit. She stated when the proposal first came out; the two stated problems were that Shenandoah was worried about the safety of their students crossing the street and there were too many traffic accidents at the intersection of Millwood and Pleasant Valley Road. She stated she has not been to every meeting and assumes the problem of student safety while crossing the street was set aside since it was ridiculous. She went to college at an urban college in the heart of a city where there was a lot of traffic and all of the students crossed the streets without a problem. They learned how to do that in elementary school. She stated the solution given for the accidents at Millwood and Pleasant Valley was to slow down the traffic. She stated the problem with the intersection is it does not have a good line of sight. When approaching the intersection on Pleasant Valley Road from the direction of the park, you are coming up a hill and cannot see what is going on in the intersection until you are almost in it. She stated the idea of slowing down the traffic as it approaches that intersection does not make sense because you are solving a problem that does not exist. She stated slowing down the traffic is not going to help people be able to see what is going on in the intersection. The common sense thing to her would be to change the layout of the land around the intersection. She suggested building the road up as it comes to the light so people can see. She stated it runs counter intuitive to her to constrict the traffic and slow it down instead of letting the traffic run efficiently. None of it makes sense to her at all. She stated if you are trying to solve the issue at this intersection, why did it come out much later that Shenandoah University wants to build a recital hall. She asked what that had to do with the accidents at the intersection. She stated she does not understand how it got to debating this and forgetting what the original problem was which was supposedly fixing the accidents at that intersection. She stated she does not know that happened but it doesn't make sense.

Robina Rich Bouffault of 3 West Piccadilly Street stated on July 19, 2011, the city held a joint meeting of the Planning Commission and the Economic Development Authority concerning Millwood Avenue before the University's Saber Wang traffic study was done. After that meeting, a July 20, 2011 Winchester Star article stated "Jim Vickers, chairman of SU's Board of Trustees, said during the meeting that a detailed traffic impact analysis will be performed before any work is done. If it determines that the plan will not improve traffic flow in the area, the University will not go forward with the project." Ms. Bouffault stated on October 12, 2011 on TV3, Shenandoah University President Tracy Fitzsimmons when asked what if the study shows that closing Millwood is not beneficial to the city as a whole responded "We're not going to do it. We love this community and we love being here." Ms. Bouffault stated the University's Saber Wang study was completed in March of 2012, six months later. In the summary on page 24, it lists as the disadvantages "westbound Millwood Avenue queues may extend into the new intersection at times with an increase in travel time for westbound Jubal Early traffic heading towards downtown Winchester." She stated contrary to any spin or hype you may have read, the University study confirms that traffic will not be improved but delayed. Therefore, she will ask both the University President Fitzsimmons and Trustee Jim Vickers a simple question. She asked given the results of their own consultant study which clearly shows that their plan will not only not improve traffic flow, it will indeed worsen it with increased travel times and stacking, will they now, as they promised last year, be withdrawing this project. She stated the councilors have seen a vast majority of the public is against this project. The almost 1500 petition signatures gathered in one month is eloquent. She stated the public voted Council into office. Council needs to heed their wishes and leave any personal desires or preferences. It seems to her that deliberating voting to increase traffic congestion in an already problematic area would be a direct violation of the City Charter. She asked Council to please vote no when they vote or put it to a referendum.

Melanie Henry of 726 Academy Circle stated she is opposed to the giving or selling of any part of Millwood Avenue to Shenandoah University. Without repeating the arguments on this subject, she reminded Council that this is an already congested area and a major artery into Winchester. She does not believe adequate or impartial studies have been made. She stated once this road is gone, it will be impossible to reconsider and we will all live with the consequences. The obligation of Council is to its residents and taxpayers. She hopes Council considers this in making this important decision.

Paulette Jennis of 120 Roszel Road stated she continues to be opposed to the closing of Millwood Avenue. She has been a commuter through there, morning and evening, for over fifteen years and has observed that the present route is the fastest and safest route across town. She stated closing it is a step backwards in dealing with the traffic concerns in an already difficult interchange. She has never seen a city planning or traffic planning study that chooses to divert traffic that goes in multiple directions into one. She stated it just doesn't make sense. She does not have confidence in the studies that have been paid for by the University that continue to minimize the concerns of added traffic congestion by creating a new light. She does not feel that adequate measurement has been done with traffic and yet the studies have acknowledged there will be backups at peak times. She

stated she is very concerned that emergency vehicles will be blocked if there is a backup in the pass through lane especially when Jubal Early already backs up. She stated the engineers say there will never be a red light and the lights will be coordinated but can they guarantee that there will be no Dereks and Dereks' moms in the pass through lane that need to get to the hospital. She does not believe that Council has fairly and objectively considered this public safety issue. Therefore, she does not feel her needs as a citizen have been represented by the Council in this decision. She stated she finds it very ironic that just this week our Attorney General advanced a proposed constitutional amendment to prevent local governments from taking land for private development meaning this practice is most egregious at the local level and the test case involves a university. Closing Millwood benefits the University and not the citizens that use this road every day. She stated over and over this has been called an improvement. It is not an improvement for citizens who need the road only for Shenandoah for development purposes.

Mike Brill of 824 South Loudoun Street stated he read an article where Council was trying to get more people involved in government. One option to consider is making it open for land owners in the City of Winchester to be eligible to run for office. He stated everyone knows his position on Millwood and he could repeat everything that has been said but there are other people that need to talk. For something new, Council may consider changing how they let people run. He stated he pays taxes in Winchester and spends 75% of his waking hours in Winchester but he does not live in Winchester so he cannot run.

Art Perkins of 115 Petyon Street stated he stands completely against this. He thinks it is completely unfair to the residents and to the town. He would like to start referring to this by its correct name Malfunction Junction. He stated Malfunction Junction was the name given to the intersection we are talking about. Malfunction Junction has grown now to include from the university to Apple Blossom Mall west on Featherbed Lane and Jubal Early and down Pleasant Valley Road. He said what you are doing is nothing but adding more traffic to the confusion. He crosses through the intersection 5 to 9 times a week. If he can avoid it, he does. When he comes in, he goes on Millwood Avenue. When he leaves, he is thankful for being out of there. He stated he lives on Peyton Street, has been retired since 1983, and doesn't intend to leave. He doesn't think Council is being fair to the citizens of the community. He stated Route 50 and 17 constantly carry about 50% of the traffic that enters into Winchester and they stay on Millwood Avenue. Now, you want to put it all through the one intersection with a continuous turn. As soon as you get through the turn, there will be a traffic light. He understands the traffic light is to aid the students to cross the street. He stated he thinks it is completely unfair and requested Council vote no to this and return Millwood to the citizens. They are getting a 10 for 1 land swap. He stated it is a win-win for them and a lose-lose for us.

Todd Golding of 1027 Kinzel Drive thanked City Council for using this process again. He stated they are going above and beyond in keeping this as open as they can. He commended and thanked the citizens of Winchester who came to speak to Council. He stated the first thing that came to his mind for Shenandoah University was



miscommunication. He thinks there is a lot of misunderstanding to what their intent or desire is and he thinks they should take the blame for that. He thinks the message got muddled early on and it has led to a perception that some members of the community still have. He stated he also thinks it was poor timing, unintentionally of course, in releasing their economic impact statement. Some of the people he spoke with think it seemed to be a bit heavy handed saying look what we do for the city so you could get your way. He does not think that was the intent but it is a shame that people in the community feel that way. He addressed Councilor Veach and stated he hates the position he is in. With Councilor Veach's wife as an employee at the university, there are people that are going to look at him and say he should not vote. For that reason alone, he thinks Councilor Veach should abstain. His personal opinion is Councilor Veach will not allow anything to sway his vote and he will vote from his conscience but unfortunately there will be people in the community that think otherwise. He regrets that but hopes Councilor Veach takes it into account. He thanked city staff for the work they have put into this to help him understand the documentation that has been put out. He stated that has actually led him to where he is not actually opposed to it but he is not necessarily for it because he still has some concerns. The biggest concern is the new traffic light. He sees that as having an impact. He hopes he is wrong because he can see the ancillary benefits if there is a recital hall built there and how that could dramatically impact our community. He wished Council the best with this and stated he is thankful for not being in their position right now.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:02 p.m.*

**Motion** to accept the report of the in-house viewers for: **O-2012-23 - AN ORDINANCE TO ACCEPT THE CONVEYANCE OF PROPERTY FROM SHENANDOAH UNIVERSITY AND VDOT; AND TO VACATE AND CONVEY PROPERTY TO SHENANDOAH UNIVERSITY, J.L. MEAGLE AND T.L. LIVERMAN, LLC; AND FLC & BROTHERS REBEL, INC., AND FLC & BROTHERS MOTEL, INC., IN FURTHERANCE OF THE MILLWOOD AVENUE PROJECT SV-12-302**

Vice-President Willingham moved to accept the in-house viewers report for O-2012-23. *The motion was seconded by Councilor Hill then approved 7/2 with Mayor Minor and Councilor Clark voting in the negative.*

**O-2012-23: Second Reading – AN ORDINANCE TO ACCEPT THE CONVEYANCE OF PROPERTY FROM SHENANDOAH UNIVERSITY AND VDOT; AND TO VACATE AND CONVEY PROPERTY TO SHENANDOAH UNIVERSITY, J.L. MEAGLE AND T.L. LIVERMAN, LLC; AND FLC & BROTHERS REBEL, INC., AND FLC & BROTHERS MOTEL, INC., IN FURTHERANCE OF THE MILLWOOD AVENUE PROJECT SV-12-302**

Vice-President Willingham moved to adopt O-2012-14. The motion was seconded by Councilor Tagnesi.

Councilor Tagnesi stated the mission of this Council is “to provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners.” Therefore, he will be supporting this.

Councilor Clark thanked City staff and Shenandoah University for all of the information they have shared. He thanked the citizens for taking the time out of their day to let Council know how they feel about this issue. He stated he made a motion the last time Council met to try to come up with a value for the property and to try to make sure that if the property were conveyed that a fair market value was established and it would be clear that Shenandoah was buying the land that was conveyed. From the earlier meeting, it does not look like that is going forward so he will not be supporting this motion. He stated he does think the gateway to the city is very important. His grandfather was a city planner and worked tirelessly to make sure city entrances were beautiful. If this motion goes through, he thinks it will be a great opportunity to have a beautiful entrance into the city which is a personal goal of his. One thing he wanted to make sure is if this happened, the city had a purchase for the property but that wasn’t clear in the way the motion was said. He stated \$2 million in beautification and road improvements is nothing to sneeze at. Some of his peers have worked that figure out to \$37.00 a square foot which is way more than the \$10.00 of assessed value.

*The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
Councilor Clark	Nay
Councilor Hill	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Nay
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

**O-2012-24:** Second Reading – AN ORDINANCE TO DEDICATE PROPERTY AS A PUBLIC RIGHT OF WAY FOR UNIVERSITY DRIVE; ACCEPT PROPERTY FROM SHENANDOAH UNIVERSITY, MAYFLOWER APPLE BLOSSOM LP; FLC & BROTHERS REBEL, INC. AND FLC & BROTHERS MOTEL, INC., AND ALLEN & ALIZZI HOLDINGS, LP, LLP AND DEDICATE THE SAME FOR PUBLIC RIGHT OF WAY PURPOSE IN FURTHERANCE OF THE MILLWOOD AVENUE PROJECT

Ken Candelle of 127 Myrtle Avenue stated given the previous vote and the affect on the decision here, it’s a foregone conclusion that there will be a lot of people wasting time traveling through our community. He has never met a person coming to Winchester that has gotten lost. He stated the city has been here for over 200 years and it has always been able to be found whether there is a beautiful entrance or not. People come here to visit

us, visit our walking mall and see the historical sites. He stated that will all be impacted by their travel time being spent going through an intersection that is now proposed. Most accidents as reported in the studies are rear end collisions. He stated that is attentiveness of the driver. Council is now going to put additional drivers on the road, take away at least one if not two lanes of travel, and force them to make a line of sight decision half the distance of what they are currently making now with that right hand turn introduction. He stated he wishes Council would seriously consider not proposing what they are about to decide.

John McAniff of 719 Pennsylvania Avenue stated the problem with Malfunction Junction as it's called can be fixed very easily. If any one of you have looked coming west, the signage shows Jubal Early Drive as two lanes going to the left. It does not show Millwood going to the right or Route 50, 17, 522 or the hospital all downtown on the sign. He stated improper signage is why people get lost in the city. The signs for 50, 17, 522, and the hospital are about the size of the no parking signs in the city and they are blocked by the trees until the last minute. He stated correct the signage, correct the problem and vote no for giving in to SU.

Tim Servagney of East Germain Street stated starting back on Route 50 around Sulfur Springs Road people enter through one gigantic shopping area. They come through and go past Bob Evans, Perkins, an old warehouse, the back of Toys-R-Us, and up Jubal Early but it is all commercial. He stated that is not a beautiful gateway. Seven hundred feet of earth berm with some plantings around it is not going to be a beautiful gateway. It will be a beautiful new sign for the university but where is the city's name going to be. They are putting up a brand new sign and giving away land for the university. He asked what about Winchester. He stated if Council wants a beautiful gateway, Winchester's name should be on it.

Martha Sparkman of Valley Mill Road stated it has been said over and over in the news and in this venue that there is a problem with the students' safety in crossing the crosswalks. She asked what caliber of students is coming to SU who can't manage to go across a crosswalk that is clearly marked and why is it an issue to begin with. She stated they are clearly marked and she has never heard of a student being hurt. She has not heard of any accident in that intersection. She has never seen an accident in that intersection. She stated she thinks the road could be improved by making it two lanes. It is in changing lanes that very often you will have problems. She stated there are signs that say 17, 50, and 522 about half way down but there should be one at the entrance and one shortly before that clearly showing where you are going. She has lived here for almost eight years and has managed not to get lost. She stated she prays Council manages not to get lost in this quagmire.

A citizen stated he and his wife moved here about eighteen years ago. In the past eighteen years, he has seen how Winchester has grown. New housing developments, new businesses and with that a lot more traffic than existed eighteen years ago. With all of the traffic and all of this talk about closing Millwood, one of the things the university was always harping about is but he has not heard lately is their concern about the number of

students walking across Millwood and the fear there would be accidents and the pedestrians would be hit. He stated he has driven that road in the morning, in the evening, in the nighttime, and at rush hour over the past eighteen years and he thinks he could count on the one hand how many pedestrians he has seen crossing. He sees that as a flat out lie on the part of Shenandoah University.

Joseph Alger of 142 McCarty Lane stated he always felt he has a special connection to the college. He did not attend it but his sister's in-laws sold their family farm for the college. He asked why there couldn't be a gateway over Millwood Avenue coming into Winchester. He asked where there will be a gateway going into four lanes of traffic. He stated no one has ever explained that to him so it makes sense.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:15 p.m.*

Vice-President Willingham moved to approve O-2012-24. The motion was seconded by Vice-Mayor McInturff.

Councilor Weber stated a few moments ago, he colleague Councilor Clark commended all of you attending tonight. Being one of the new ones on the block, it makes him so proud to know there is a community that is concerned about itself, about the welfare of its future and of course that there are people like Derrick who ultimately are who we are voting for in the future. He stated he would like to thank Robina Bouffault and all of those that spoke tonight because it is your responsibility to keep Council on its toes. It is your responsibility to help Council ask the questions of applicants and other residents to keep going. That is what Council is doing. He stated many of you have not come to the work sessions to hear the discussions. He encouraged everyone to come to the work sessions to hear the whole process and not just the night of the vote. You would learn a lot as an item progresses. He stated he looked through the petition briefly. He had asked someone online to see the petition in advance but did not have that opportunity. He stated there are signatures from Charlottesville, Capon Bridge, Woodstock, Front Royal, Gore, and Stephens City. They are very important but they are not as important as if every signature was from a resident of Winchester. He stated Council has to represent the 26,000 people in the City of Winchester and take that into consideration. He stated to the individuals who go online and blast City Council and other people in an anonymous setting in the Winchester Star, you do nothing to help the cause. He stated those people who do not have the guts to run for office or to put their name on blog sites count for very little in his book.

*The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

**MEMBER**  
Councilor Clark

**VOTE**  
Nay

Councilor Hill	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Nay
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

**Motion** to recommend granting an exception per Section 8-1 of the Land Subdivision Ordinance to provide relief of the driveway spacing standards in Section 2-2-32.1 for a right-in/right-out driveway along E. Jubal Early Drive between S. Pleasant Valley Rd and Apple Blossom Drive (**NO PUBLIC HEARING REQUIRED**)

Vice-Mayor McInturff moved to approve the recommendation. *The motion was seconded by Vice-President Willingham then approved 8/1 with Mayor Minor voting in the negative.*

**R-2012-52:** Resolution – Authorization to Execute a Memorandum of Understanding for Easements in Furtherance of the Millwood Avenue Project (**NO PUBLIC HEARING REQUIRED**)

Vice-President Willingham moved to approve R-2012-52. *The motion was seconded by Councilor Tagnesi then approved 7/2 with Mayor Minor and Councilor Clark voting in the negative.*

**R-2012-53:** Resolution – Authorization to Execute a Development Agreement regarding the Millwood Avenue Project (**NO PUBLIC HEARING REQUIRED**)

Councilor Tagnesi moved to approve R-2012-53. *The motion was seconded by Vice-Mayor McInturff then approved 7/2 with Mayor Minor and Councilor Clark voting in the negative.*

**O-2012-27:** Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 1 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF AND APPOINTMENT OF THE ZONING ADMINISTRATOR

Ken Candelle of 127 Myrtle Avenue stated in response to Councilor Weber's statement, he signs his name. He stands by what he says and he means what he says. He stated he signs as Kenneth Candelle, Ken Candelle, or KC depending on what site you go to. He stated he hides behind nothing. He is not Steve, mmwinc or any of the others. He is who he is and that is the way he was brought up.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:20 p.m.*

Vice-Mayor McInturff moved to adopt O-2012-27. *The motion was seconded by Vice-President Willingham then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

**CU-12-360:** Conditional Use Permit – Request of Greenway Engineering on behalf of the Winchester-Frederick-Clarke SPCA for expansion of animal shelter at 115 Featherbed Lane

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:21 p.m.*

Councilor Veach moved to approve CU-12-360. *The motion was seconded by Councilor Tagnesi then unanimously approved by voice-vote.*

**R-2012-63:** Resolution – Approval of 2011 Consolidated Annual Performance Evaluation Report (CAPER)

*No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:22 p.m.*

Vice-President Willingham moved to approve R-2012-63. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**R-2012-64:** Resolution – Approval to execute and submit an application for Enterprise Zone designation to the Virginia Department of Housing and Community Development

Economic Development Director Jim Deskins stated Council has been presented with a list of incentives and at the work session provided a map showing the areas. For the record at this public hearing, he would like to indicate the two areas that will be covered by the zone are generally referred to as the Winchester Industrial Park to the south and the northern section of the city will have the area that is predominately known for the

apple industry and will extend along National Avenue to include the area at the intersection of Route 7 and I-81.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:23 p.m.*

Councilor Veach moved to approve R-2012-64. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

President Buettner asked to add a motion to have the Clerk note in the minutes of this meeting that a public hearing was held on Tuesday, September 11, 2012, at 7:00 p.m. in Council Chambers at Rouss City Hall regarding the boundaries and incentives for the proposed City of Winchester Enterprise Zone. The public hearing was properly advertised in advance as required by the Virginia Department of Housing and Community Development under their Enterprise Zone Application Guidelines.

Vice-Mayor McInturff moved to add the motion as stated. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Councilor Clark moved to approve the motion as stated. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

## **PUBLIC COMMENTS**

James Swartz of 341 Shenandoah Avenue stated he takes exception to Councilor Weber saying petitioners don't matter. There were 2,100 signatures and Councilor Weber talks like 25,000 people want this. He stated kids can't sign petitions only adults. Millwood Avenue is used by people that drive from Front Royal, the developments out 50 East and Upperville. He stated the study was made at a wrong time. He suggested Council go out there in the morning around 8:30 or 9:00 when all of the doctor appointments start. He stated there will be people coming to the medical center and asked if they had a right to sign the petition. He stated they should because they use it. Right now, it is one of the prettiest entrances into Winchester. The only one that surpasses it is the one coming in by the hospital which is being worked on. He stated coming in from Martinsburg, West Virginia has got to be the ugliest entrance into Winchester. When you drop down the hill on Millwood, you are seeing a panoramic view of Winchester. Winchester has been here a long, long time. He stated a lot of people who live in the county said they would love to sign the petition but it would not do any good and Councilor Weber just affirmed that. He stated he is going to have to leave his house earlier to get to his job, to the hospital, to doctor's appointments and his name doesn't count.

*No further citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 8:28 p.m.*

## CONSENT AGENDA

**Motion:** Approval the appointment of Dale Iman and Mary Blowe as the Elected or Appointed Official members to the Community Policy and Management Team

Vice-President Willingham moved to approve the Consent Agenda. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

## AGENDA

**Motion** to accept the report of the in-house viewers for: **O-2012-21 – AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT-OF-WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY SV-12-251**

Vice-President Willingham moved to accept the in-house viewers report for O-2012-21. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**O-2012-21:** Second Reading – AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT-OF-WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY SV-12-251

Councilor Veach moved to adopt O-2012-21. *The motion was seconded by Councilor Weber then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Clark	Aye
Councilor Hill	Aye
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Aye
Councilor Veach	Aye
Councilor Weber	Aye
Vice-President Willingham	Aye
President Buettner	Aye

**O-2012-28:** First Reading – AN ORDINANCE TO REZONE 1.48 ACRES OF LAND AT 302-304, 320, AND 326-330 NORTH CAMERON STREET AND 110 EAST FAIRFAX LANE (Map Numbers 173-01-S-1, 2, 3 & 4) FROM COMMERCIAL INDUSTRIAL (CM-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY RZ-12-353



**CU-12-63:** Conditional Use Permit – Required three month review for Celebrating Patsy Cline, Inc. for a museum at 608 South Kent Street

Vice-President Willingham moved to approve CU-12-63. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**R-2012-61:** Resolution – Approval of application for Federal Transit Administration Financial Assistance Grant

Vice-President Willingham moved to approve R-2012-61. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2012-62:** Resolution – Approval of application for Virginia Department of Rail and Public Transportation Financial Assistance

Vice-President Willingham moved to approve R-2012-62. *The motion was seconded by Councilor Tagnesi then unanimously approved by voice-vote.*

**R-2012-65:** Resolution – Authorization for the submittal of a Hazard Mitigation Grant Program pre-application for projects relating to the purchase and installation of generators and/or quick connect equipment at sanitary sewer lift stations and storm drainage improvements

Mayor Minor moved to approve R-2012-65. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**R-2012-66:** Resolution – Approval to apply for VML Grant funding for public safety related items

Vice-President Willingham moved to approve R-2012-66. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2012-67:** Resolution – Authorization to submit and sign a 2013 Industrial Revitalization Fund Grant application

Vice-Mayor McInturff moved to approve R-2012-67. *The motion was seconded by Councilor Weber then unanimously approved by voice-vote.*

**Motion** to approve the Shenandoah Valley Chief Local Elected Officials Consortium Agreement

Vice-President Willingham moved to approve the Shenandoah Valley CLEO Consortium Agreement. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**Motion** to approve the contract for Events Coordinator Services and authorize the City Manager to execute the contract

Mayor Minor moved to approve the Events Coordinator Services contract. The motion was seconded by Councilor Tagnesi.

Mr. Williams stated he has not had time to review the contract and suggested Council table taking action until next month.

Councilor Clark moved to table the contract until next month. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**Motion** to re-appoint \_\_\_\_\_ as a member of the Old Town Development Board for a three year term expiring October 31, 2015

Vice-President Willingham moved to re-appoint Marilyn Finnemore to the OTDB. *The motion was seconded by Vice-Mayor McInturff then unanimously approved by voice-vote.*

**Motion** to re-appoint \_\_\_\_\_ and appoint \_\_\_\_\_ as members of the Frederick-Winchester Service Authority to a three year term each expiring August 31, 2015

Vice-President Willingham moved to reappoint Shep Campbell and appoint Kevin Wolfe to the Frederick-Winchester Service Authority. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Announce** the term expirations of Jim Riley, Sandra Armstrong, and Veerle Forman as members of the Handley Library Board effective November 30, 2012. Mr. Riley, Ms. Armstrong and Ms. Forman are not eligible for re-appointment.

Councilor Weber stated he was not trying to take away anything from the hard work that the citizens did collecting the names. He was only trying to point out that as somebody had stated these were all residents of the City of Winchester, it was not the case. He stated he would ask that everyone from Charlottesville come to spend their money and go back to Charlottesville. In no way was he trying to belittle the individuals. They do have a voice but Council's vote has to be for the overall well being and good of the citizens of the City of Winchester. He encouraged and thanked everyone for bringing the petition forward but Council has to remember to do this for the citizens of Winchester.

## **ADJOURNMENT**

Vice-Mayor McInturff moved to adjourn the meeting at 8:36 p.m. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

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Kari J. Van Diest  
Deputy Clerk of the Common Council